

March 19, 2019

Mr. Devin Leary
Human & Rohde, Inc.
512 Virginia Avenue
Towson, MD 21286

Re: Pikesville Hilton at 1726 Reisterstown Road
Forest Conservation Variance
Tracking #02-19-2938

Dear Mr. Leary:

A request for a variance from the Baltimore County Code Article 33 Environmental Protection and Sustainability, Title 6 Forest Conservation was received by this Department on February 22, 2019. This request proposes to base the afforestation required by Section 33-6-111 of the Forest Conservation Law on the 0.4-acre limit of disturbance (LOD) rather than the entire 11.4-acre property in order to construct a new meeting and banquet room addition to the existing Pikesville Hilton hotel building. No forest exists onsite and no specimen trees will be impacted. Using the LOD as the net tract area on the forest conservation worksheet would require the applicant to provide 0.1 acre of afforestation instead of the 1.7 acres required under full compliance.

The Director of the Department of Environmental Protection and Sustainability (EPS) may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner to show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of his property. The property is currently a functioning hotel building. As such, the petitioner is already realizing significant use of the property without the proposed development for which the variance is being sought. Consequently, full application of the law to the entire property would not deprive the applicant of all beneficial use of the property. Therefore, we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d) (2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The petitioner's plight is due to unique budgetary circumstances, not general conditions of the neighborhood. Consequently, we find that the second criterion has been met.

The third criterion (Subsection 33-6-116(d) (3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The surrounding neighborhood consists of high-density commercial and residential areas. Given this property's long standing use as a hotel, we find that the addition of the meeting and banquet room will not alter the essential character of this neighborhood and that this criterion has been met.

The fourth criterion (Subsection 33-6-116(e) (1) of the Code) requires that the granting of the special variance will not adversely affect water quality. The project will not impact any streams, wetlands, floodplains, or their associated buffers nor will it impact forest. The development is proposed over predominantly impervious surface, and current storm water management regulations will be met in its design and construction. As such, this Department finds that the proposed variance will not adversely affect water quality. Consequently, this criterion has been met.

The fifth criterion (Subsection 33-6-116(e) (2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not taken any prior actions creating a condition or circumstance to necessitate this variance request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Reducing the afforestation obligation based on the LOD for the addition would be consistent with the spirit and intent of the Forest Conservation Law. This is especially true given the small size of the LOD and that no forest or surface water resources would be impacted. The applicant proposes to meet the reduced afforestation requirement through payment of a fee-in-lieu or the purchase of credit at an offsite forest retention bank, if possible. Therefore, this criterion has been met.

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Based on our review, this Department finds that all required variance criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code contingent upon the following conditions:

1. The LOD shall be limited to the 0.4-acre area shown on the plans accompanying the variance application.
2. The 0.1 acre of afforestation shall be addressed by either payment of a \$2,395.80 fee in lieu of afforestation or purchase of credit in an EPS-approved forest planting bank prior to issuance of any permit for this activity.
3. The following note must be on all plans for this project:

A special variance to Baltimore County's Forest Conservation Law was granted on March 19, 2019 by the Dept. of Environmental Protection & Sustainability to allow afforestation requirements to be based on the 0.4-acre limit of disturbance for the construction of the new meeting and banquet room addition rather than the entire 11.4-acre property. Conditions were placed on this variance to ensure that the spirit and intent of the Forest Conservation Law were met in constructing this addition.

4. Granting this variance does not exempt future development activities on this property from full compliance with the Forest Conservation Law.

It is the intent of this Department to approve this variance. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the party responsible for meeting the conditions of this variance sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please call Ms. Libby Errickson at (410) 887-3980.

Sincerely yours,

David V. Lykens
Acting Director

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DVL/lbe

- c. Mr. Matthew Bishop, Colbert Matz Rosenfelt, Inc.
Hotel Pikesville LLC

I/we agree to the above conditions to bring my/our property into compliance with
Baltimore County's Forest Conservation Law.

Owner's Signature

Date

Printed Name